

**This partial version of 312 IAC 6 includes all definitions and Lake Michigan beach nourishment rules. Beach nourishment rules are highlighted. The full version of 312 IAC 6 can be obtained at - <http://www.in.gov/legislative/iac/title312.html> (Click on ARTICLE 6. Navigable Waters)**

## ARTICLE 6. NAVIGABLE WATERS

### Rule 1. Applicability

#### 312 IAC 6-1-1 Application of article

Authority: IC 14-10-2-4; IC 14-29-1-8

Affected: IC 14-19-1-1; IC 14-21-1; IC 14-28-1; IC 14-29-1; IC 14-29-3; IC 14-29-4-5; IC 14-34; IC 14-37

Sec. 1. (a) This article governs an activity relative to a license, and an activity for which a license is required whether or not a permit is sought or held, under IC 14-19-1-1, IC 14-29-1, IC 14-29-3, IC 14-29-4 (if IC 14-29-4-5(2) applies), or another statute administered by the department as a result of a waterway being navigable.

(b) In the absence of a contrary state boundary, the line of demarcation for a navigable waterway is the ordinary high watermark.

(c) A separate license is not required under this article and IC 14-29-1 for an activity permitted under IC 14-21-1, IC 14-28-1, IC 14-29-3, IC 14-34, or IC 14-37.

(d) Compliance with this article satisfies the licensing requirements for IC 14-29-1, IC 14-29-3, and IC 14-29-4 (if IC 14-29-4-5(2) applies).

(e) Before issuing a license under IC 14-21-1, IC 14-28-1, IC 14-34, or IC 14-37, the department shall apply the requirements of IC 14-29-1-8 and this article with respect to an activity within a navigable waterway.

(f) Before issuing a license under this rule, the department shall consider the following:

(1) The public trust doctrine.

(2) The likely impact upon the applicant and other affected persons, including the accretion or erosion of sand or sediments.

(g) A separate license is not required under IC 14-29-1-8 for an activity which is exempted from licensing by IC 14-29-1-8(e). (*Natural Resources Commission; 312 IAC 6-1-1; filed Sep 11, 1997, 8:50 a.m.: 21 IR 366*)

#### 312 IAC 6-1-2 Transfer of license

Authority: IC 14-10-2-4; IC 14-29-1-8

Affected: IC 14

Sec. 2. (a) A person cannot transfer or assign a license issued under this article unless prior written approval for the transfer or assignment is obtained from the director.

(b) The director shall not unreasonably deny a request to transfer or assign a permit issued under this article. (*Natural Resources Commission; 312 IAC 6-1-2; filed Sep 11, 1997, 8:50 a.m.: 21 IR 367*)

#### 312 IAC 6-1-3 License application; limitations; revocation; general sanctions

Authority: IC 14-10-2-4; IC 14-29-1-8

Affected: IC 4-21.5; IC 14-9-3; IC 14-10-2-6; IC 14-29

Sec. 3. (a) A license issued under this article is subject to the conditions, terms, or limitations contained on or attached to the license.

(b) A license may be suspended or revoked by the department under IC 4-21.5 for a violation of IC 14-29, this article, or a condition contained on or attached to the license.

(c) Any deputy director referenced in IC 14-9-3 may file a complaint with the commission that seeks the issuance of a notice of violation and the imposition of a charge, where authorized by IC 14-10-2-6, for any of the following:

(1) A violation of IC 14-29.

(2) A violation of this article.

(3) A violation of a condition contained on or attached to a license issued under this article.

(4) Conduct of an activity for which a license is required under this article but for which no license is obtained.

(d) The issuance of a license under this article does not divest the United States, Indiana, the department, or a riparian or littoral owner of a propriety interest in a navigable waterway or adjacent lands. (*Natural Resources Commission; 312 IAC 6-1-3; filed Sep 11, 1997, 8:50 a.m.: 21 IR 367; errata filed Nov 24, 1997, 4:30 p.m.: 21 IR 1347*)

## Rule 2. Definitions

### 312 IAC 6-2-1 Applicability

Authority: IC 14-10-2-4; IC 14-29-1-8

Affected: IC 14

Sec. 1. (a) The definitions contained in this rule apply throughout this article.

(b) The definitions contained in 312 IAC 1 also apply. (*Natural Resources Commission; 312 IAC 6-2-1; filed Sep 11, 1997, 8:50 a.m.: 21 IR 367*)

### 312 IAC 6-2-2 “Abandoned shipwreck” defined

Authority: IC 14-10-2-4; IC 14-21-1-31; IC 14-29-1-8

Affected: IC 14

Sec. 2. “Abandoned shipwreck” means a shipwreck to which title has been given up by the owner with the intent of never claiming a right or interest in the future. An intention to give up title may be demonstrated where an owner:

(1) takes steps to collect insurance or pay a salvage award to a person who salvages the vessel's cargo; or

(2) takes no action after a wreck incident to recovering or removing the vessel and its cargo.

(*Natural Resources Commission; 312 IAC 6-2-2; filed Sep 11, 1997, 8:50 a.m.: 21 IR 367*)

### 312 IAC 6-2-3 “Beach nourishment” defined

Authority: IC 14-10-2-4; IC 14-29-1-8

Affected: IC 14

Sec. 3. “Beach nourishment” means the placement of sand to mitigate beach erosion:

(1) within the ordinary high watermark of Lake Michigan; or

(2) within such proximity to the shoreline of Lake Michigan that wind or water erosion is likely to transport sand into the lake.

(*Natural Resources Commission; 312 IAC 6-2-3; filed Sep 11, 1997, 8:50 a.m.: 21 IR 367*)

### 312 IAC 6-2-4 “Historic shipwreck” defined

Authority: IC 14-10-2-4; IC 14-21-1-31; IC 14-29-1-8

Affected: IC 14

Sec. 4. “Historic shipwreck” means a shipwreck that is located within a historic site. (*Natural Resources Commission; 312 IAC 6-2-4; filed Sep 11, 1997, 8:50 a.m.: 21 IR 367*)

### 312 IAC 6-2-5 “Historic site” defined

Authority: IC 14-10-2-4; IC 14-21-1-31; IC 14-29-1-8

Affected: IC 14-8-2-125

Sec. 5. “Historic site” has the meaning set forth in IC 14-8-2-125. (*Natural Resources Commission; 312 IAC 6-2-5; filed Sep 11, 1997, 8:50 a.m.: 21 IR 367*)

### 312 IAC 6-2-6 “Marina” defined

Authority: IC 14-10-2-4; IC 14-29-1-8

Affected: IC 14

Sec. 6. “Marina” means a structure that:

(1) can service simultaneously at least five (5) watercraft; and

(2) provides, for a fee, one (1) or more of the following:

- (A) Watercraft engine fuel.
- (B) Docks.
- (C) Watercraft repair.
- (D) Watercraft sales or rental.

*(Natural Resources Commission; 312 IAC 6-2-6; filed Sep 11, 1997, 8:50 a.m.: 21 IR 368)*

312 IAC 6-2-7 “Public or municipal water utility” defined

Authority: IC 14-10-2-4; IC 14-29-1-8

Affected: IC 8-1-2-1; IC 14

Sec. 7. “Public or municipal water utility” means a “public utility” under IC 8-1-2-1(a) or a “municipally owned utility” under IC 8-1-2-1(h), which is operated to furnish water. *(Natural Resources Commission; 312 IAC 6-2-7; filed Sep 11, 1997, 8:50 a.m.: 21 IR 368)*

312 IAC 6-2-8 “Shipwreck” defined

Authority: IC 14-10-2-4; IC 14-21-1-31; IC 14-29-1-8

Affected: IC 14

Sec. 8. (a) “Shipwreck” means a vessel or wreck, its cargo, and other contents.

(b) As used in subsection (a), a “vessel or wreck” includes each of the following:

- (1) Hull.
- (2) Rigging.
- (3) Armaments.
- (4) Apparel.
- (5) Tackle.
- (6) Cargo.
- (7) Other contents of the watercraft.

*(Natural Resources Commission; 312 IAC 6-2-8; filed Sep 11, 1997, 8:50 a.m.: 21 IR 368)*

312 IAC 6-2-9 “Waterway” defined *(Repealed)*

Sec. 9. *(Repealed by Natural Resources Commission; filed Feb 7, 2000, 3:31 p.m.: 23 IR 1367)*

## Rule 6. General Authorization for Beach Nourishment to Lake Michigan

312 IAC 6-6-1 Applicability

Authority: IC 14-10-2-4; IC 14-29-1-8

Affected: IC 14-29-1

Sec. 1. (a) This rule establishes terms for a general authorization to place sand for beach nourishment within Indiana Dunes National Lakeshore or Indiana Dunes State Park.

(b) A person who acts under this rule is not required to complete an application or to obtain a written license from the department under IC 14-29-1. A person may, however, elect to seek a written license under IC 14-29-1 rather than apply this rule. *(Natural Resources Commission; 312 IAC 6-6-1; filed Sep 11, 1997, 8:50 a.m.: 21 IR 371)*

312 IAC 6-6-2 Notice to the department of natural resources

Authority: IC 14-10-2-4; IC 14-29-1-8

Affected: IC 14

Sec. 2. A person who wishes to obtain a general authorization under this rule must provide a written notice to the division of water of the department, including the following:

(1) The name, address, and telephone number of any person seeking the authorization. Persons for which the information shall be provided include:

- (A) the owner of the sand before placement for beach nourishment; and

(B) if other than the owner, the person who transports the sand.

(2) The site, and the ownership of the site, from which sand will be removed or extracted.

(3) The results of any testing or other documentation to establish the sand is unlikely to contain contaminants harmful to humans or aquatic life.

(4) The method by which the sand is to be transported.

(5) The site where the sand is to be deposited for the purpose of providing beach nourishment and written acceptance of the riparian owner for its deposit.

(6) The period for which the general authorization is sought.

*(Natural Resources Commission; 312 IAC 6-6-2; filed Sep 11, 1997, 8:50 a.m.: 21 IR 371)*

### 312 IAC 6-6-3 Department project review

Authority: IC 14-10-2-4; IC 14-29-1-8

Affected: IC 14

Sec. 3. (a) Following the receipt of a written notice under section 2 of this rule, the department shall inspect the site from which the sand is to be extracted and the site at which the sand is to be deposited. Within fourteen (14) days after the receipt of the written notice, the department shall inform the person seeking the general authorization whether:

(1) the person may proceed;

(2) the person must comply with additional conditions in order to act under this rule, which general conditions may include successful completion of testing criteria; or

(3) the person cannot act except according to a license issued under IC 14-29-1-8.

(b) In performing its review, the department shall consider whether removal, transport, or placement of the sand is likely to pose a hazard to either of the following:

(1) Public health or safety.

(2) The environment.

(c) If the department does not respond within fourteen (14) days of the receipt of a written notice, the request for the general authorization is deemed to have been approved. *(Natural Resources Commission; 312 IAC 6-6-3; filed Sep 11, 1997, 8:50 a.m.: 21 IR 371)*

### 312 IAC 6-6-4 Posting

Authority: IC 14-10-2-4; IC 14-29-1-8

Affected: IC 14

Sec. 4. The department may require a person who acts upon the general authorization to post a copy of the written notice, together with the acceptance and any terms or conditions required by the department, at the site where the sand is deposited. *(Natural Resources Commission; 312 IAC 6-6-4; filed Sep 11, 1997, 8:50 a.m.: 21 IR 371)*

### 312 IAC 6-6-5 Compliance with terms and sanctions for violations

Authority: IC 14-10-2-4; IC 14-29-1-8

Affected: IC 14

Sec. 5. (a) A person who acts upon a general authorization must comply with the terms of the written notice provided under section 2 of this rule and any conditions under section 3 of this rule.

(b) A violation of subsection (a) may result in a revocation or suspension of the general authorization or in any other sanction provided by law for the violation of a license issued by the department. *(Natural Resources Commission; 312 IAC 6-6-5; filed Sep 11, 1997, 8:50 a.m.: 21 IR 371)*